

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JULIANA VELAZQUEZ,

Plaintiff,

-against-

CITY OF NEW YORK, RAYMOND KELLY,
POLICE COMMISSIONER OF THE NEW YORK
CITY POLICE DEPARTMENT, LT. THOMAS
HARTIGAN and SGT, CHARLES ROMERO, sued
in their individual and professional capacities.

**ANSWER OF
DEFENDANT
HARTIGAN**

08 CV 2159 (BSJ)

Defendants.

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Defendant, Lt. Thomas Hartigan, in his individual and professional capacity, by his attorney, **MICHAEL A. CARDOZO**, Corporation Counsel of the City of New York, as and for his answer to the Complaint, respectfully alleges as follows:

1. Denies the allegations set forth in Paragraph "1" of the Complaint except admit that plaintiff purports to set forth a basis for the action.
2. Denies the allegations set forth in Paragraphs "2, 3, 4, and 5" of the Complaint except admit that plaintiff purports to invoke the jurisdiction of the Court as stated therein.
3. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph "6" of the Complaint.
4. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph "7" of the Complaint.

5. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph "8" of the Complaint, except admits that the document referred to therein is annexed to the Complaint.

6. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph "9" of the Complaint.

7. Denies the allegations set forth in Paragraph "10" of the Complaint except admit that plaintiff purports to set forth the basis of venue.

8. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph "11" of the Complaint except admit that plaintiff was a probationary police officer with the New York City Police Department ("NYPD").

9. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph "12" of the Complaint, except admit that the City is a municipal entity.

10. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph "13" of the Complaint except admit that defendant Raymond Kelly is the Police Commissioner of the New York City Police Department and that plaintiff purports to proceed as set forth therein.

11. Denies the allegations set forth in Paragraph "14" of the Complaint except admit that defendant Thomas Hartigan was a Lieutenant in the NYPD and that plaintiff purports to proceed as set forth therein.

12. Denies the allegations set forth in Paragraph "15" of the Complaint except admit that defendant Charles Romero is a Sergeant in the NYPD and that plaintiff purports to proceed as set forth therein.

13. Denies the allegations set forth in Paragraph "16" of the Complaint except admit that plaintiff Juliana Velazquez was appointed to the title of police officer in the NYPD, subject to the satisfactory completion of a probationary period, and admit that plaintiff was assigned to PSA5 Command.

14. Denies the truth of the allegations set forth in Paragraph "17" of the Complaint.

15. Denies the truth of the allegations set forth in Paragraph "18" of the Complaint.

16. Denies the truth of the allegations set forth in Paragraph "19" of the Complaint.

17. Denies the truth of the allegations set forth in Paragraph "20" of the Complaint.

18. Denies the truth of the allegations set forth in Paragraph "21" of the Complaint.

19. Denies the truth of the allegations set forth in Paragraph "22" of the Complaint.

20. Denies the truth of the allegations set forth in Paragraph "23" of the Complaint.

21. Denies the truth of the allegations set forth in Paragraph "24" of the Complaint.

22. Denies the truth of the allegations set forth in Paragraph "25" of the Complaint.

23. Denies the truth of the allegations set forth in Paragraph "26" of the Complaint.

24. Denies the truth of the allegations set forth in Paragraph "27" of the Complaint.

25. Denies the truth of the allegations set forth in Paragraph "28" of the Complaint.

26. Denies the truth of the allegations set forth in Paragraph "29" of the Complaint except admit that plaintiff was suspended for refusing to obey a lawful order.

27. Denies the allegations set forth in Paragraph "30" of the Complaint.

28. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph "31" of the Complaint.

29. Denies the truth of the allegations set forth in Paragraph "32" of the Complaint.

30. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph "33" of the Complaint.

31. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph "34" of the Complaint.

32. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph "35" of the Complaint except admit Sgt. Romero was transferred.

33. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph "36" of the Complaint.

34. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph "37" of the Complaint.

35. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph "38" of the Complaint.

36. Denies the allegations set forth in Paragraph "39" of the Complaint.

37. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph "40" of the Complaint.

38. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph "41" of the Complaint.

39. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph "42" of the Complaint.

40. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph "43" of the Complaint.

41. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph "44" of the Complaint.

42. Denies the allegations set forth in Paragraph "45" of the Complaint.

43. Denies the allegations set forth in Paragraph "46" of the Complaint.

44. Denies the allegations set forth in Paragraph "47" of the Complaint.

45. In response to paragraph "48" of Complaint defendants repeat and re-allege their responses to Paragraphs "1" through "47" of the Complaint, as if fully set forth here.

46. Denies the allegations set forth in Paragraph "49" of the Complaint.

47. Denies the allegations set forth in Paragraph "50" of the Complaint.

48. Denies the allegations set forth in Paragraph "51" of the Complaint.

49. Denies the allegations set forth in Paragraph "52" of the Complaint.
50. In response to paragraph "53" of Complaint defendants repeat and re-allege their responses to Paragraphs "1" through "52" of the Complaint, as if fully set forth here.
 51. Denies the allegations set forth in Paragraph "54" of the Complaint.
 52. Denies the allegations set forth in Paragraph "55" of the Complaint.
 53. Denies the allegations set forth in Paragraph "56" of the Complaint.
 54. Denies the allegations set forth in Paragraph "57" of the Complaint.
 55. Denies the allegations set forth in Paragraph "58" of the Complaint.
 56. In response to paragraph "59" of Complaint defendants repeat and re-allege their responses to Paragraphs "1" through "58" of the Complaint, as if fully set forth here.
 57. Denies the allegations set forth in Paragraph "60" of the Complaint.
 58. Denies the allegations set forth in Paragraph "61" of the Complaint.
 59. Denies the allegations set forth in Paragraph "62" of the Complaint.
 60. Denies the allegations set forth in Paragraph "63" of the Complaint.
 61. Denies the allegations set forth in Paragraph "64" of the Complaint.
 62. In response to paragraph "65" of Complaint defendants repeat and re-allege their responses to Paragraphs "1" through "64" of the Complaint, as if fully set forth here.
 63. Denies the allegations set forth in Paragraph "66" of the Complaint.
 64. Denies the allegations set forth in Paragraph "67" of the Complaint.
 65. Denies the allegations set forth in Paragraph "68" of the Complaint.
 66. Denies the allegations set forth in Paragraph "69" of the Complaint.
 67. Denies the allegations set forth in Paragraph "70" of the Complaint.

68. In response to paragraph "71" of Complaint defendants repeat and re-allege their responses to Paragraphs "1" through "70" of the Complaint, as if fully set forth here.

69. Denies the allegations set forth in Paragraph "72" of the Complaint.

70. Denies the allegations set forth in Paragraph "73" of the Complaint.

71. Denies the allegations set forth in Paragraph "74" of the Complaint.

72. Denies the allegations set forth in Paragraph "75" of the Complaint.

73. Denies the allegations set forth in Paragraph "76" of the Complaint.

74. In response to paragraph "77" of Complaint defendants repeat and re-allege their responses to Paragraphs "1" through "76" of the Complaint, as if fully set forth here.

75. Denies the allegations set forth in Paragraph "78" of the Complaint.

76. Denies the allegations set forth in Paragraph "79" of the Complaint.

77. Denies the allegations set forth in Paragraph "80" of the Complaint.

78. Denies the allegations set forth in Paragraph "81" of the Complaint.

79. Denies the allegations set forth in Paragraph "82" of the Complaint.

80. Denies the allegations set forth in Paragraph "83" of the Complaint.

81. In response to paragraph "84" of Complaint defendants repeat and re-allege their responses to Paragraphs "1" through "83" of the Complaint, as if fully set forth here.

82. Denies the allegations set forth in Paragraph "85" of the Complaint.

83. Denies the allegations set forth in Paragraph "86" of the Complaint.

84. Denies the allegations set forth in Paragraph "87" of the Complaint.

85. Denies the allegations set forth in Paragraph "88" of the Complaint.

86. Denies the allegations set forth in Paragraph "89" of the Complaint.

87. In response to paragraph "90" of Complaint defendants repeat and re-allege their responses to Paragraphs "1" through "89" of the Complaint, as if fully set forth here.

88. Denies the allegations set forth in Paragraph "91" of the Complaint.

89. Denies the allegations set forth in Paragraph "92" of the Complaint.

90. Denies the allegations set forth in Paragraph "93" of the Complaint.

91. Denies the allegations set forth in Paragraph "94" of the Complaint.

92. In response to paragraph "95" of Complaint defendants repeat and re-allege their responses to Paragraphs "1" through "94" of the Complaint, as if fully set forth here.

93. Denies the allegations set forth in Paragraph "96" of the Complaint.

94. Denies the allegations set forth in Paragraph "97" of the Complaint.

95. Denies the allegations set forth in Paragraph "98" of the Complaint.

96. Denies the allegations set forth in Paragraph "99" of the Complaint.

97. Denies the allegations set forth in Paragraph "100" of the Complaint.

98. In response to paragraph "101" of Complaint defendants repeat and re-allege their responses to Paragraphs "1" through "100" of the Complaint, as if fully set forth here.

99. Denies the allegations set forth in Paragraph "102" of the Complaint.

100. Denies the allegations set forth in Paragraph "103" of the Complaint.

101. Denies the allegations set forth in Paragraph "104" of the Complaint.

102. Denies the allegations set forth in Paragraph "105" of the Complaint.

103. Denies the allegations set forth in Paragraph "106" of the Complaint.

104. In response to paragraph "107" of Complaint defendants repeat and re-allege their responses to Paragraphs "1" through "106" of the Complaint, as if fully set forth here.

105. Denies the allegations set forth in Paragraph "108" of the Complaint.

106. Denies the allegations set forth in Paragraph "109" of the Complaint.

107. Denies the allegations set forth in Paragraph "110" of the Complaint.

108. Denies the allegations set forth in Paragraph "111" of the Complaint.

109. Denies the allegations set forth in Paragraph "112" of the Complaint.

110. Denies the allegations set forth in Paragraph "113" of the Complaint.

111. In response to paragraph "114" of Complaint defendants repeat and re-allege their responses to Paragraphs "1" through "113" of the Complaint, as if fully set forth here.

112. Denies the allegations set forth in Paragraph "115" of the Complaint.

113. Denies the allegations set forth in Paragraph "116" of the Complaint.

114. Denies the allegations set forth in Paragraph "117" of the Complaint.

115. Denies the allegations set forth in Paragraph "118" of the Complaint.

116. Denies the allegations set forth in Paragraph "119" of the Complaint.

117. In response to paragraph "120" of Complaint defendants repeat and re-allege their responses to Paragraphs "1" through "119" of the Complaint, as if fully set forth here.

118. Denies the allegations set forth in Paragraph "121" of the Complaint.

119. Denies the allegations set forth in Paragraph "122" of the Complaint.

120. Denies the allegations set forth in Paragraph "123" of the Complaint.

121. Denies the allegations set forth in Paragraph "124" of the Complaint.

122. Denies the allegations set forth in Paragraph "125" of the Complaint.

123. In response to paragraph "126" of Complaint defendants repeat and re-allege their responses to Paragraphs "1" through "125" of the Complaint, as if fully set forth here.

124. Denies the allegations set forth in Paragraph "127" of the Complaint.

125. Denies the allegations set forth in Paragraph "128" of the Complaint.

126. Denies the allegations set forth in Paragraph "129" of the Complaint.
127. Denies the allegations set forth in Paragraph "130" of the Complaint.
128. Denies the allegations set forth in Paragraph "131" of the Complaint.
129. In response to paragraph "132" of Complaint defendants repeat and re-allege their responses to Paragraphs "1" through "131" of the Complaint, as if fully set forth here.
130. Denies the truth of the allegations set forth in Paragraph "133" of the Complaint.
131. Denies the truth of the allegations set forth in Paragraph "134" of the Complaint.
132. In response to paragraph "135" of Complaint defendants repeat and re-allege their responses to Paragraphs "1" through "134" of the Complaint, as if fully set forth here.
133. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph "136" of the Complaint.
134. Denies the allegations set forth in Paragraph "137" of the Complaint.
135. In response to paragraph "138" of Complaint defendants repeat and re-allege their responses to Paragraphs "1" through "137" of the Complaint, as if fully set forth here.
136. Denies the truth of the allegations set forth in Paragraph "139" of the Complaint.
137. Denies the truth of the allegations set forth in Paragraph "140" of the Complaint.
138. In response to paragraph "141" of Complaint defendants repeat and re-allege their responses to Paragraphs "1" through "140" of the Complaint, as if fully set forth here.

139. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph "142" of the Complaint.

140. Denies the allegations set forth in Paragraph "143" of the Complaint.

141. In response to paragraph "144" of Complaint defendants repeat and re-allege their responses to Paragraphs "1" through "143" of the Complaint, as if fully set forth here.

142. Denies the truth of the allegations set forth in Paragraph "145" of the Complaint.

143. Denies the truth of the allegations set forth in Paragraph "146" of the Complaint.

144. Denies the truth of the allegations set forth in Paragraph "147" of the Complaint.

145. Denies the allegations set forth in Paragraph "148" of the Complaint.

146. In response to paragraph "149" of Complaint defendants repeat and re-allege their responses to Paragraphs "1" through "148" of the Complaint, as if fully set forth here.

147. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph "150" of the Complaint.

148. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph "151" of the Complaint.

149. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph "152" of the Complaint.

150. Denies the allegations set forth in Paragraph "153" of the Complaint.

151. In response to paragraph "154" of Complaint defendants repeat and re-allege their responses to Paragraphs "1" through "153" of the Complaint, as if fully set forth here.

152. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph "155" of the Complaint.

153. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph "156" of the Complaint.

154. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph "157" of the Complaint.

155. Denies the allegations set forth in Paragraph "158" of the Complaint.

156. In response to paragraph "159" of Complaint defendants repeat and re-allege their responses to Paragraphs "1" through "158" of the Complaint, as if fully set forth here.

157. Denies the allegations set forth in Paragraph "160" of the Complaint.

158. Denies the allegations set forth in Paragraph "161" of the Complaint.

159. Denies the allegations set forth in Paragraph "162" of the Complaint.

160. Denies the allegations set forth in Paragraph "163" of the Complaint.

161. Denies the allegations set forth in Paragraph "164" of the Complaint.

162. Denies the allegations set forth in Paragraph "165" of the Complaint.

163. In response to paragraph "166" of Complaint defendants repeat and re-allege their responses to Paragraphs "1" through "165" of the Complaint, as if fully set forth here.

164. Denies the truth of the allegations set forth in Paragraph "167" of the Complaint.

165. Denies the truth of the allegations set forth in Paragraph "168" of the Complaint.

166. Denies the truth of the allegations set forth in Paragraph "169" of the Complaint.

167. Denies the allegations set forth in Paragraph "170" of the Complaint.

168. In response to paragraph "171" of Complaint defendants repeat and re-allege their responses to Paragraphs "1" through "170" of the Complaint, as if fully set forth here.

169. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph "172" of the Complaint.

170. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph "173" of the Complaint.

171. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph "174" of the Complaint.

172. Denies the allegations set forth in Paragraph "175" of the Complaint.

173. In response to paragraph "176" of Complaint defendants repeat and re-allege their responses to Paragraphs "1" through "175" of the Complaint, as if fully set forth here.

174. Denies the allegations set forth in Paragraph "177" of the Complaint.

175. Denies the allegations set forth in Paragraph "178" of the Complaint.

176. Denies the allegations set forth in Paragraph "179" of the Complaint.

AS AND FOR A FIRST DEFENSE

177. The Complaint fails to state any claim upon which relief may be granted.

AS AND FOR A SECOND DEFENSE

178. Defendant Hartigan is shielded from suit by the doctrines of absolute immunity, qualified immunity, common law immunity, judicial immunity, or any combination of these doctrines.

AS AND FOR A THIRD DEFENSE

179. Plaintiff has not satisfied all conditions precedent to suit.

AS AND FOR A FOURTH DEFENSE

180. At all times relevant to the acts alleged in the Complaint, defendant Hartigan's conduct was reasonable, proper, lawful, constitutional, made in good faith for nondiscriminatory, non-retaliatory, legitimate, business reasons, and without malice and/or without willful intent to violate any applicable law, rule or regulation.

AS AND FOR A FIFTH DEFENSE

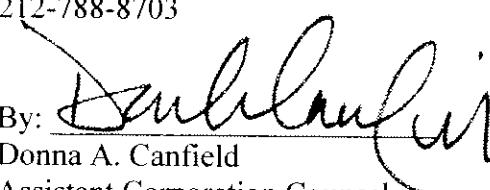
181. Plaintiff unreasonably failed to take advantage of preventative or corrective opportunities provided by the City to its employees or to otherwise avoid harm.

CONCLUSION

WHEREFORE, defendant Hartigan respectfully requests that the Complaint be dismissed in its entirety as against him, that the court enter judgment for him , and that defendant Hartigan be granted costs, fees, and disbursements together with such other and further relief as the Court deems just and proper.

Dated: New York, New York
 July 8, 2008

MICHAEL A. CARDOZO
Corporation Counsel of the
City of New York
Attorney for Defendant Hartigan
100 Church Street, Room 2-107
New York, N.Y. 10007-2601
212-788-8703

By: 
Donna A. Canfield
Assistant Corporation Counsel
dcanfiel@law.nyc.gov

To: CRONIN & BYCZEK, LLP
Attorney(s) for Plaintiff
1983 Marcus Avenue
Suite C-120
Lake Success, New York 11042
Att: Linda Cronin

CERTIFICATE OF SERVICE

I, Donna A. Canfield, hereby certify that on this date, I caused a copy of the foregoing Defendants' Answer to Plaintiff's Complaint to be served upon plaintiffs by placing a copy in a pre-addressed, stamped envelope directed to:

CRONIN & BYCZEK, LLP
Attorney(s) for Plaintiff
1983 Marcus Avenue
Suite C-120
Lake Success, New York 11042
Att: Linda Cronin

that being the address designated by plaintiff for such service, and placing that envelope in a depository under the exclusive care and control of the United States Postal Service.

Dated: New York, New York
July 8, 2008



Donna A. Canfield

